

Representative Kraig Powell proposes the following substitute bill:

ALCOHOLIC BEVERAGE SERVICE AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Alcoholic Beverage Control Act to address issues related to the regulation of alcoholic products.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ removes certain restrictions on the dispensing and storage of alcoholic products;
- ▶ removes restrictions related to sitting at a bar structure;
- ▶ repeals credit for grandfathered bar structures; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-1-102, as last amended by Laws of Utah 2013, Chapter 349

32B-6-205, as last amended by Laws of Utah 2013, Chapter 353



- 26 **32B-6-302**, as last amended by Laws of Utah 2011, Chapter 334
- 27 **32B-6-305**, as last amended by Laws of Utah 2013, Chapter 353
- 28 **32B-6-703**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
- 29 **32B-6-805**, as last amended by Laws of Utah 2012, Chapter 365
- 30 **32B-6-905**, as last amended by Laws of Utah 2013, Chapter 353
- 31 **32B-8-402**, as last amended by Laws of Utah 2011, Chapter 334

32 REPEALS:

- 33 **32B-6-202**, as last amended by Laws of Utah 2011, Chapter 334
- 34 **32B-6-205.1**, as enacted by Laws of Utah 2010, Chapter 276
- 35 **32B-6-305.1**, as enacted by Laws of Utah 2010, Chapter 276
- 36 **32B-6-902**, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2

37

38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **32B-1-102** is amended to read:

40 **32B-1-102. Definitions.**

41 As used in this title:

42 (1) "Airport lounge" means a business location:

- 43 (a) at which an alcoholic product is sold at retail for consumption on the premises; and
- 44 (b) that is located at an international airport with a United States Customs office on the

45 premises of the international airport.

46 (2) "Airport lounge license" means a license issued in accordance with Chapter 5,

47 Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

48 (3) "Alcoholic beverage" means the following:

- 49 (a) beer; or
- 50 (b) liquor.

51 (4) (a) "Alcoholic product" means a product that:

- 52 (i) contains at least .5% of alcohol by volume; and
- 53 (ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other

54 process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol
55 in an amount equal to or greater than .5% of alcohol by volume.

56 (b) "Alcoholic product" includes an alcoholic beverage.

57 (c) "Alcoholic product" does not include any of the following common items that
58 otherwise come within the definition of an alcoholic product:

- 59 (i) except as provided in Subsection (4)(d), an extract;
- 60 (ii) vinegar;
- 61 (iii) cider;
- 62 (iv) essence;
- 63 (v) tincture;
- 64 (vi) food preparation; or
- 65 (vii) an over-the-counter medicine.

66 (d) "Alcoholic product" includes an extract containing alcohol obtained by distillation
67 when it is used as a flavoring in the manufacturing of an alcoholic product.

68 (5) "Alcohol training and education seminar" means a seminar that is:

- 69 (a) required by Chapter 5, Part 4, Alcohol Training and Education Act; and
- 70 (b) described in Section [62A-15-401](#).

71 (6) "Banquet" means an event:

72 (a) that is held at one or more designated locations approved by the commission in or
73 on the premises of a:

- 74 (i) hotel;
- 75 (ii) resort facility;
- 76 (iii) sports center; or
- 77 (iv) convention center;

78 (b) for which there is a contract:

79 (i) between a person operating a facility listed in Subsection (6)(a) and another person;
80 and

81 (ii) under which the person operating a facility listed in Subsection (6)(a) is required to
82 provide an alcoholic product at the event; and

83 (c) at which food and alcoholic products may be sold, offered for sale, or furnished.

84 (7) (a) "Bar" means a surface or structure:

- 85 (i) at which an alcoholic product is:
 - 86 (A) stored; or
 - 87 (B) dispensed; or

- 88 (ii) from which an alcoholic product is served.
- 89 (b) "Bar structure" means a surface or structure on a licensed premises if on or at any
- 90 place of the surface or structure an alcoholic product is:
- 91 (i) stored; or
- 92 (ii) dispensed.
- 93 (8) (a) Subject to Subsection (8)(d), "beer" means a product that:
- 94 (i) contains at least .5% of alcohol by volume, but not more than 4% of alcohol by
- 95 volume or 3.2% by weight; and
- 96 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
- 97 (b) "Beer" may or may not contain hops or other vegetable products.
- 98 (c) "Beer" includes a product that:
- 99 (i) contains alcohol in the percentages described in Subsection (8)(a); and
- 100 (ii) is referred to as:
- 101 (A) beer;
- 102 (B) ale;
- 103 (C) porter;
- 104 (D) stout;
- 105 (E) lager; or
- 106 (F) a malt or malted beverage.
- 107 (d) "Beer" does not include a flavored malt beverage.
- 108 (9) "Beer-only restaurant license" means a license issued in accordance with Chapter 5,
- 109 Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.
- 110 (10) "Beer retailer" means a business:
- 111 (a) that is engaged, primarily or incidentally, in the retail sale of beer to a patron,
- 112 whether for consumption on or off the business premises; and
- 113 (b) to whom a license is issued:
- 114 (i) for an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise
- 115 Beer Retailer Local Authority; or
- 116 (ii) for an on-premise beer retailer, in accordance with Chapter 5, Retail License Act,
- 117 and Chapter 6, Part 7, On-Premise Beer Retailer License.
- 118 (11) "Beer wholesaling license" means a license:

119 (a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and
120 (b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more
121 retail licensees or off-premise beer retailers.

122 (12) "Billboard" means a public display used to advertise, including:

- 123 (a) a light device;
- 124 (b) a painting;
- 125 (c) a drawing;
- 126 (d) a poster;
- 127 (e) a sign;
- 128 (f) a signboard; or
- 129 (g) a scoreboard.

130 (13) "Brewer" means a person engaged in manufacturing:

- 131 (a) beer;
- 132 (b) heavy beer; or
- 133 (c) a flavored malt beverage.

134 (14) "Brewery manufacturing license" means a license issued in accordance with
135 Chapter 11, Part 5, Brewery Manufacturing License.

136 (15) "Certificate of approval" means a certificate of approval obtained from the
137 department under Section [32B-11-201](#).

138 (16) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by
139 a bus company to a group of persons pursuant to a common purpose:

- 140 (a) under a single contract;
- 141 (b) at a fixed charge in accordance with the bus company's tariff; and
- 142 (c) to give the group of persons the exclusive use of the passenger bus, coach, or other
143 motor vehicle, and a driver to travel together to one or more specified destinations.

144 (17) "Church" means a building:

- 145 (a) set apart for worship;
- 146 (b) in which religious services are held;
- 147 (c) with which clergy is associated; and
- 148 (d) that is tax exempt under the laws of this state.

149 (18) (a) "Club license" means a license issued in accordance with Chapter 5, Retail

150 License Act, and Chapter 6, Part 4, Club License.

151 (b) "Club license" includes:

152 (i) a dining club license;

153 (ii) an equity club license;

154 (iii) a fraternal club license; or

155 (iv) a social club license.

156 (19) "Commission" means the Alcoholic Beverage Control Commission created in

157 Section [32B-2-201](#).

158 (20) "Commissioner" means a member of the commission.

159 (21) "Community location" means:

160 (a) a public or private school;

161 (b) a church;

162 (c) a public library;

163 (d) a public playground; or

164 (e) a public park.

165 (22) "Community location governing authority" means:

166 (a) the governing body of the community location; or

167 (b) if the commission does not know who is the governing body of a community

168 location, a person who appears to the commission to have been given on behalf of the

169 community location the authority to prohibit an activity at the community location.

170 (23) "Container" means a receptacle that contains an alcoholic product, including:

171 (a) a bottle;

172 (b) a vessel; or

173 (c) a similar item.

174 (24) "Convention center" means a facility that is:

175 (a) in total at least 30,000 square feet; and

176 (b) otherwise defined as a "convention center" by the commission by rule.

177 (25) (a) Subject to Subsection (25)(b), "counter" means a surface or structure in a
178 dining area of a licensed premises where seating is provided to a patron for service of food.

179 (b) "Counter" does not include a surface or structure if on or at any point of the surface
180 or structure an alcoholic product is:

- 181 (i) stored; or
- 182 (ii) dispensed.
- 183 (26) "Department" means the Department of Alcoholic Beverage Control created in
- 184 Section [32B-2-203](#).
- 185 (27) "Department compliance officer" means an individual who is:
- 186 (a) an auditor or inspector; and
- 187 (b) employed by the department.
- 188 (28) "Department sample" means liquor that is placed in the possession of the
- 189 department for testing, analysis, and sampling.
- 190 (29) "Dining club license" means a license issued in accordance with Chapter 5, Retail
- 191 License Act, and Chapter 6, Part 4, Club License, that is designated by the commission as a
- 192 dining club license.
- 193 (30) "Director," unless the context requires otherwise, means the director of the
- 194 department.
- 195 (31) "Disciplinary proceeding" means an adjudicative proceeding permitted under this
- 196 title:
- 197 (a) against a person subject to administrative action; and
- 198 (b) that is brought on the basis of a violation of this title.
- 199 [~~(32)(a) Subject to Subsection (32)(b), "dispense" means:~~]
- 200 [~~(i) drawing of an alcoholic product;~~]
- 201 [~~(A) from an area where it is stored; or~~]
- 202 [~~(B) as provided in Subsection [32B-6-205](#)(12)(b)(ii), [32B-6-305](#)(12)(b)(ii);~~
- 203 [32B-6-805](#)(15)(b)(ii), or [32B-6-905](#)(12)(b)(ii), and]
- 204 [~~(ii) using the alcoholic product described in Subsection (32)(a)(i) on the premises of~~
- 205 ~~the licensed premises to mix or prepare an alcoholic product to be furnished to a patron of the~~
- 206 ~~retail licensee.]~~
- 207 [~~(b) The definition of "dispense" in this Subsection (32) applies only to:~~]
- 208 [~~(i) a full-service restaurant license;~~]
- 209 [~~(ii) a limited-service restaurant license;~~]
- 210 [~~(iii) a reception center license; and~~]
- 211 [~~(iv) a beer-only restaurant license.]~~

212 [~~(33)~~] (32) "Distillery manufacturing license" means a license issued in accordance
213 with Chapter 11, Part 4, Distillery Manufacturing License.

214 [~~(34)~~] (33) "Distressed merchandise" means an alcoholic product in the possession of
215 the department that is saleable, but for some reason is unappealing to the public.

216 [~~(35)~~] (34) "Educational facility" includes:

- 217 (a) a nursery school;
- 218 (b) an infant day care center; and
- 219 (c) a trade and technical school.

220 [~~(36)~~] (35) "Equity club license" means a license issued in accordance with Chapter 5,
221 Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the commission
222 as an equity club license.

223 [~~(37)~~] (36) "Event permit" means:

- 224 (a) a single event permit; or
- 225 (b) a temporary beer event permit.

226 [~~(38)~~] (37) "Exempt license" means a license exempt under Section [32B-1-201](#) from
227 being considered in determining the total number of a retail license that the commission may
228 issue at any time.

229 [~~(39)~~] (38) (a) "Flavored malt beverage" means a beverage:

- 230 (i) that contains at least .5% alcohol by volume;
- 231 (ii) that is treated by processing, filtration, or another method of manufacture that is not
232 generally recognized as a traditional process in the production of a beer as described in 27
233 C.F.R. Sec. 25.55;

234 (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop
235 extract; and

236 (iv) (A) for which the producer is required to file a formula for approval with the
237 federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or

238 (B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.

239 (b) "Flavored malt beverage" is considered liquor for purposes of this title.

240 [~~(40)~~] (39) "Fraternal club license" means a license issued in accordance with Chapter
241 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the
242 commission as a fraternal club license.

243 [~~(41)~~] (40) "Full-service restaurant license" means a license issued in accordance with
244 Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

245 [~~(42)~~] (41) (a) "Furnish" means by any means to provide with, supply, or give an
246 individual an alcoholic product, by sale or otherwise.

247 (b) "Furnish" includes to:

248 (i) serve;

249 (ii) deliver; or

250 (iii) otherwise make available.

251 [~~(43)~~] (42) "Guest" means an individual who meets the requirements of Subsection
252 [32B-6-407\(9\)](#).

253 [~~(44)~~] (43) "Health care practitioner" means:

254 (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

255 (b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

256 (c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

257 (d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice
258 Act;

259 (e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b,
260 Nurse Practice Act;

261 (f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy
262 Practice Act;

263 (g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational
264 Therapy Practice Act;

265 (h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

266 (i) a mental health professional licensed under Title 58, Chapter 60, Mental Health
267 Professional Practice Act;

268 (j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

269 (k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical
270 Practice Act;

271 (l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental
272 Hygienist Practice Act; and

273 (m) a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Act.

274 [~~(45)~~] (44) (a) "Heavy beer" means a product that:
275 (i) contains more than 4% alcohol by volume; and
276 (ii) is obtained by fermentation, infusion, or decoction of malted grain.
277 (b) "Heavy beer" is considered liquor for the purposes of this title.
278 [~~(46)~~] (45) "Hotel" is as defined by the commission by rule.
279 [~~(47)~~] (46) "Identification card" means an identification card issued under Title 53,
280 Chapter 3, Part 8, Identification Card Act.
281 [~~(48)~~] (47) "Industry representative" means an individual who is compensated by
282 salary, commission, or other means for representing and selling an alcoholic product of a
283 manufacturer, supplier, or importer of liquor.
284 [~~(49)~~] (48) "Industry representative sample" means liquor that is placed in the
285 possession of the department for testing, analysis, and sampling by a local industry
286 representative on the premises of the department to educate the local industry representative of
287 the quality and characteristics of the product.
288 [~~(50)~~] (49) "Interdicted person" means a person to whom the sale, offer for sale, or
289 furnishing of an alcoholic product is prohibited by:
290 (a) law; or
291 (b) court order.
292 [~~(51)~~] (50) "Intoxicated" means that a person:
293 (a) is significantly impaired as to the person's mental or physical functions as a result of
294 the use of:
295 (i) an alcoholic product;
296 (ii) a controlled substance;
297 (iii) a substance having the property of releasing toxic vapors; or
298 (iv) a combination of Subsections [~~(51)~~] (50)(a)(i) through (iii); and
299 (b) exhibits plain and easily observed outward manifestations of behavior or physical
300 signs produced by the over consumption of an alcoholic product.
301 [~~(52)~~] (51) "Investigator" means an individual who is:
302 (a) a department compliance officer; or
303 (b) a nondepartment enforcement officer.
304 [~~(53)~~] (52) "Invitee" is as defined in Section [32B-8-102](#).

305 [~~(54)~~] (53) "License" means:

306 (a) a retail license;

307 (b) a license issued in accordance with Chapter 11, Manufacturing and Related

308 Licenses Act;

309 (c) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

310 or

311 (d) a license issued in accordance with Chapter 13, Beer Wholesaling License Act.

312 [~~(55)~~] (54) "Licensee" means a person who holds a license.

313 [~~(56)~~] (55) "Limited-service restaurant license" means a license issued in accordance
314 with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

315 [~~(57)~~] (56) "Limousine" means a motor vehicle licensed by the state or a local
316 authority, other than a bus or taxicab:

317 (a) in which the driver and a passenger are separated by a partition, glass, or other
318 barrier;

319 (b) that is provided by a business entity to one or more individuals at a fixed charge in
320 accordance with the business entity's tariff; and

321 (c) to give the one or more individuals the exclusive use of the limousine and a driver
322 to travel to one or more specified destinations.

323 [~~(58)~~] (57) (a) (i) "Liquor" means a liquid that:

324 (A) is:

325 (I) alcohol;

326 (II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

327 (III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

328 (IV) other drink or drinkable liquid; and

329 (B) (I) contains at least .5% alcohol by volume; and

330 (II) is suitable to use for beverage purposes.

331 (ii) "Liquor" includes:

332 (A) heavy beer;

333 (B) wine; and

334 (C) a flavored malt beverage.

335 (b) "Liquor" does not include beer.

336 [~~(59)~~] (58) "Liquor Control Fund" means the enterprise fund created by Section
337 32B-2-301.

338 [~~(60)~~] (59) "Liquor warehousing license" means a license that is issued:

339 (a) in accordance with Chapter 12, Liquor Warehousing License Act; and

340 (b) to a person, other than a licensed manufacturer, who engages in the importation for
341 storage, sale, or distribution of liquor regardless of amount.

342 [~~(61)~~] (60) "Local authority" means:

343 (a) for premises that are located in an unincorporated area of a county, the governing
344 body of a county; or

345 (b) for premises that are located in an incorporated city or a town, the governing body
346 of the city or town.

347 [~~(62)~~] (61) "Lounge or bar area" is as defined by rule made by the commission.

348 [~~(63)~~] (62) "Manufacture" means to distill, brew, rectify, mix, compound, process,
349 ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to
350 others.

351 [~~(64)~~] (63) "Member" means an individual who, after paying regular dues, has full
352 privileges in an equity club licensee or fraternal club licensee.

353 [~~(65)~~] (64) (a) "Military installation" means a base, air field, camp, post, station, yard,
354 center, or homeport facility for a ship:

355 (i) (A) under the control of the United States Department of Defense; or

356 (B) of the National Guard;

357 (ii) that is located within the state; and

358 (iii) including a leased facility.

359 (b) "Military installation" does not include a facility used primarily for:

360 (i) civil works;

361 (ii) a rivers and harbors project; or

362 (iii) a flood control project.

363 [~~(66)~~] (65) "Minor" means an individual under the age of 21 years.

364 [~~(67)~~] (66) "Nondepartment enforcement agency" means an agency that:

365 (a) (i) is a state agency other than the department; or

366 (ii) is an agency of a county, city, or town; and

- 367 (b) has a responsibility to enforce one or more provisions of this title.
- 368 [~~(68)~~] (67) "Nondepartment enforcement officer" means an individual who is:
- 369 (a) a peace officer, examiner, or investigator; and
- 370 (b) employed by a nondepartment enforcement agency.
- 371 [~~(69)~~] (68) (a) "Off-premise beer retailer" means a beer retailer who is:
- 372 (i) licensed in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local
- 373 Authority; and
- 374 (ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's
- 375 premises.
- 376 (b) "Off-premise beer retailer" does not include an on-premise beer retailer.
- 377 [~~(70)~~] (69) "On-premise banquet license" means a license issued in accordance with
- 378 Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.
- 379 [~~(71)~~] (70) "On-premise beer retailer" means a beer retailer who is:
- 380 (a) authorized to sell, offer for sale, or furnish beer under a license issued in
- 381 accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer
- 382 Retailer License; and
- 383 (b) engaged in the sale of beer to a patron for consumption on the beer retailer's
- 384 premises:
- 385 (i) regardless of whether the beer retailer sells beer for consumption off the licensed
- 386 premises; and
- 387 (ii) on and after March 1, 2012, operating:
- 388 (A) as a tavern; or
- 389 (B) in a manner that meets the requirements of Subsection [32B-6-703\(2\)\(e\)\(i\)](#).
- 390 [~~(72)~~] (71) "Opaque" means impenetrable to sight.
- 391 [~~(73)~~] (72) "Package agency" means a retail liquor location operated:
- 392 (a) under an agreement with the department; and
- 393 (b) by a person:
- 394 (i) other than the state; and
- 395 (ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package
- 396 Agency, to sell packaged liquor for consumption off the premises of the package agency.
- 397 [~~(74)~~] (73) "Package agent" means a person who holds a package agency.

398 [~~(75)~~] (74) "Patron" means an individual to whom food, beverages, or services are sold,
399 offered for sale, or furnished, or who consumes an alcoholic product including:

- 400 (a) a customer;
- 401 (b) a member;
- 402 (c) a guest;
- 403 (d) an attendee of a banquet or event;
- 404 (e) an individual who receives room service;
- 405 (f) a resident of a resort;
- 406 (g) a public customer under a resort spa sublicense, as defined in Section [32B-8-102](#);

407 or

- 408 (h) an invitee.

409 [~~(76)~~] (75) "Permittee" means a person issued a permit under:

- 410 (a) Chapter 9, Event Permit Act; or
- 411 (b) Chapter 10, Special Use Permit Act.

412 [~~(77)~~] (76) "Person subject to administrative action" means:

- 413 (a) a licensee;
- 414 (b) a permittee;
- 415 (c) a manufacturer;
- 416 (d) a supplier;
- 417 (e) an importer;
- 418 (f) one of the following holding a certificate of approval:
 - 419 (i) an out-of-state brewer;
 - 420 (ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or
 - 421 (iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or
- 422 (g) staff of:
 - 423 (i) a person listed in Subsections [~~(77)~~] (76)(a) through (f); or
 - 424 (ii) a package agent.

425 [~~(78)~~] (77) "Premises" means a building, enclosure, or room used in connection with
426 the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic
427 product, unless otherwise defined in this title or rules made by the commission.

428 [~~(79)~~] (78) "Prescription" means an order issued by a health care practitioner when:

429 (a) the health care practitioner is licensed under Title 58, Occupations and Professions,
430 to prescribe a controlled substance, other drug, or device for medicinal purposes;

431 (b) the order is made in the course of that health care practitioner's professional
432 practice; and

433 (c) the order is made for obtaining an alcoholic product for medicinal purposes only.

434 ~~[(80)]~~ (79) (a) "Private event" means a specific social, business, or recreational event:

435 (i) for which an entire room, area, or hall is leased or rented in advance by an identified
436 group; and

437 (ii) that is limited in attendance to people who are specifically designated and their
438 guests.

439 (b) "Private event" does not include an event to which the general public is invited,
440 whether for an admission fee or not.

441 ~~[(81)]~~ (80) (a) "Proof of age" means:

442 (i) an identification card;

443 (ii) an identification that:

444 (A) is substantially similar to an identification card;

445 (B) is issued in accordance with the laws of a state other than Utah in which the
446 identification is issued;

447 (C) includes date of birth; and

448 (D) has a picture affixed;

449 (iii) a valid driver license certificate that:

450 (A) includes date of birth;

451 (B) has a picture affixed; and

452 (C) is issued:

453 (I) under Title 53, Chapter 3, Uniform Driver License Act; or

454 (II) in accordance with the laws of the state in which it is issued;

455 (iv) a military identification card that:

456 (A) includes date of birth; and

457 (B) has a picture affixed; or

458 (v) a valid passport.

459 (b) "Proof of age" does not include a driving privilege card issued in accordance with

460 Section ~~53-3-207~~.

461 [~~82~~] (81) (a) "Public building" means a building or permanent structure that is:

462 (i) owned or leased by:

463 (A) the state; or

464 (B) a local government entity; and

465 (ii) used for:

466 (A) public education;

467 (B) transacting public business; or

468 (C) regularly conducting government activities.

469 (b) "Public building" does not include a building owned by the state or a local

470 government entity when the building is used by a person, in whole or in part, for a proprietary

471 function.

472 [~~83~~] (82) "Public conveyance" means a conveyance to which the public or a portion

473 of the public has access to and a right to use for transportation, including an airline, railroad,

474 bus, boat, or other public conveyance.

475 [~~84~~] (83) "Reception center" means a business that:

476 (a) operates facilities that are at least 5,000 square feet; and

477 (b) has as its primary purpose the leasing of the facilities described in Subsection [~~84~~]

478 ~~(83)~~(a) to a third party for the third party's event.

479 [~~85~~] (84) "Reception center license" means a license issued in accordance with

480 Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

481 [~~86~~] (85) (a) "Record" means information that is:

482 (i) inscribed on a tangible medium; or

483 (ii) stored in an electronic or other medium and is retrievable in a perceivable form.

484 (b) "Record" includes:

485 (i) a book;

486 (ii) a book of account;

487 (iii) a paper;

488 (iv) a contract;

489 (v) an agreement;

490 (vi) a document; or

491 (vii) a recording in any medium.

492 [~~(87)~~] (86) "Residence" means a person's principal place of abode within Utah.

493 [~~(88)~~] (87) "Resident," in relation to a resort, is as defined in Section 32B-8-102.

494 [~~(89)~~] (88) "Resort" is as defined in Section 32B-8-102.

495 [~~(90)~~] (89) "Resort facility" is as defined by the commission by rule.

496 [~~(91)~~] (90) "Resort license" means a license issued in accordance with Chapter 5,

497 Retail License Act, and Chapter 8, Resort License Act.

498 [~~(92)~~] (91) "Restaurant" means a business location:

499 (a) at which a variety of foods are prepared;

500 (b) at which complete meals are served to the general public; and

501 (c) that is engaged primarily in serving meals to the general public.

502 [~~(93)~~] (92) "Retail license" means one of the following licenses issued under this title:

503 (a) a full-service restaurant license;

504 (b) a master full-service restaurant license;

505 (c) a limited-service restaurant license;

506 (d) a master limited-service restaurant license;

507 (e) a club license;

508 (f) an airport lounge license;

509 (g) an on-premise banquet license;

510 (h) an on-premise beer license;

511 (i) a reception center license; or

512 (j) a beer-only restaurant license.

513 [~~(94)~~] (93) "Room service" means furnishing an alcoholic product to a person in a

514 guest room of a:

515 (a) hotel; or

516 (b) resort facility.

517 [~~(95)~~] (94) "Serve" means to place an alcoholic product before an individual.

518 [~~(96)~~] (95) (a) "School" means a building used primarily for the general education of

519 minors.

520 (b) "School" does not include an educational facility.

521 [~~(97)~~] (96) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby,

522 for consideration, an alcoholic product is either directly or indirectly transferred, solicited,
523 ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether
524 done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or
525 the rules made by the commission.

526 ~~[(98)]~~ (97) "Sexually oriented entertainer" means a person who while in a state of
527 seminudity appears at or performs:

- 528 (a) for the entertainment of one or more patrons;
- 529 (b) on the premises of:
 - 530 (i) a social club licensee; or
 - 531 (ii) a tavern;
 - 532 (c) on behalf of or at the request of the licensee described in Subsection ~~[(98)]~~ (97)(b);
 - 533 (d) on a contractual or voluntary basis; and
 - 534 (e) whether or not the person is designated as:
 - 535 (i) an employee;
 - 536 (ii) an independent contractor;
 - 537 (iii) an agent of the licensee; or
 - 538 (iv) a different type of classification.

539 ~~[(99)]~~ (98) "Single event permit" means a permit issued in accordance with Chapter 9,
540 Part 3, Single Event Permit.

541 ~~[(100)]~~ (99) "Small brewer" means a brewer who manufactures less than 60,000 barrels
542 of beer, heavy beer, and flavored malt beverages per year.

543 ~~[(101)]~~ (100) "Social club license" means a license issued in accordance with Chapter
544 5, Retail License Act, and Chapter 6, Part 4, Club License, that is designated by the
545 commission as a social club license.

546 ~~[(102)]~~ (101) "Special use permit" means a permit issued in accordance with Chapter
547 10, Special Use Permit Act.

548 ~~[(103)]~~ (102) (a) "Spirituous liquor" means liquor that is distilled.

549 (b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by
550 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

551 ~~[(104)]~~ (103) "Sports center" is as defined by the commission by rule.

552 ~~[(105)]~~ (104) (a) "Staff" means an individual who engages in activity governed by this

553 title:

554 (i) on behalf of a business, including a package agent, licensee, permittee, or certificate
555 holder;

556 (ii) at the request of the business, including a package agent, licensee, permittee, or
557 certificate holder; or

558 (iii) under the authority of the business, including a package agent, licensee, permittee,
559 or certificate holder.

560 (b) "Staff" includes:

561 (i) an officer;

562 (ii) a director;

563 (iii) an employee;

564 (iv) personnel management;

565 (v) an agent of the licensee, including a managing agent;

566 (vi) an operator; or

567 (vii) a representative.

568 [~~106~~] (105) "State of nudity" means:

569 (a) the appearance of:

570 (i) the nipple or areola of a female human breast;

571 (ii) a human genital;

572 (iii) a human pubic area; or

573 (iv) a human anus; or

574 (b) a state of dress that fails to opaquely cover:

575 (i) the nipple or areola of a female human breast;

576 (ii) a human genital;

577 (iii) a human pubic area; or

578 (iv) a human anus.

579 [~~107~~] (106) "State of seminudity" means a state of dress in which opaque clothing
580 covers no more than:

581 (a) the nipple and areola of the female human breast in a shape and color other than the
582 natural shape and color of the nipple and areola; and

583 (b) the human genitals, pubic area, and anus:

- 584 (i) with no less than the following at its widest point:
- 585 (A) four inches coverage width in the front of the human body; and
- 586 (B) five inches coverage width in the back of the human body; and
- 587 (ii) with coverage that does not taper to less than one inch wide at the narrowest point.

588 ~~[(108)]~~ (107) (a) "State store" means a facility for the sale of packaged liquor:

- 589 (i) located on premises owned or leased by the state; and
- 590 (ii) operated by a state employee.

591 (b) "State store" does not include:

- 592 (i) a package agency;
- 593 (ii) a licensee; or
- 594 (iii) a permittee.

595 ~~[(109)]~~ (108) (a) "Storage area" means an area on licensed premises where the licensee
596 stores an alcoholic product.

597 (b) "Store" means to place or maintain in a location an alcoholic product from which a
598 person draws to prepare an alcoholic product to be furnished to a patron~~[-except as provided in~~

599 ~~Subsection 32B-6-205(12)(b)(ii), 32B-6-305(12)(b)(ii), 32B-6-805(15)(b)(ii), or~~

600 ~~32B-6-905(12)(b)(ii)].~~

601 ~~[(110)]~~ (109) "Sublicense" is as defined in Section 32B-8-102.

602 ~~[(111)]~~ (110) "Supplier" means a person who sells an alcoholic product to the
603 department.

604 ~~[(112)]~~ (111) "Tavern" means an on-premise beer retailer who is:

605 (a) issued a license by the commission in accordance with Chapter 5, Retail License
606 Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

607 (b) designated by the commission as a tavern in accordance with Chapter 6, Part 7,
608 On-Premise Beer Retailer License.

609 ~~[(113)]~~ (112) "Temporary beer event permit" means a permit issued in accordance with
610 Chapter 9, Part 4, Temporary Beer Event Permit.

611 ~~[(114)]~~ (113) "Temporary domicile" means the principal place of abode within Utah of
612 a person who does not have a present intention to continue residency within Utah permanently
613 or indefinitely.

614 ~~[(115)]~~ "Translucent" means a substance that allows light to pass through, but does not

615 allow an object or person to be seen through the substance.]

616 [~~(H6)~~] (114) "Unsaleable liquor merchandise" means a container that:

617 (a) is unsaleable because the container is:

618 (i) unlabeled;

619 (ii) leaky;

620 (iii) damaged;

621 (iv) difficult to open; or

622 (v) partly filled;

623 (b) (i) has faded labels or defective caps or corks;

624 (ii) has contents that are:

625 (A) cloudy;

626 (B) spoiled; or

627 (C) chemically determined to be impure; or

628 (iii) contains:

629 (A) sediment; or

630 (B) a foreign substance; or

631 (c) is otherwise considered by the department as unfit for sale.

632 [~~(H7)~~] (115) (a) "Wine" means an alcoholic product obtained by the fermentation of
633 the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or
634 not another ingredient is added.

635 (b) "Wine" is considered liquor for purposes of this title, except as otherwise provided
636 in this title.

637 [~~(H8)~~] (116) "Winery manufacturing license" means a license issued in accordance
638 with Chapter 11, Part 3, Winery Manufacturing License.

639 Section 2. Section **32B-6-205** is amended to read:

640 **32B-6-205. Specific operational requirements for a full-service restaurant license.**

641 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
642 Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee
643 shall comply with this section.

644 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
645 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 646 (i) a full-service restaurant licensee;
- 647 (ii) individual staff of a full-service restaurant licensee; or
- 648 (iii) both a full-service restaurant licensee and staff of the full-service restaurant
- 649 licensee.

650 (2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant
651 licensee shall display in a prominent place in the restaurant a list of the types and brand names
652 of liquor being furnished through the full-service restaurant licensee's calibrated metered
653 dispensing system.

654 ~~[(3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee~~
655 ~~shall store an alcoholic product in a storage area described in Subsection (12)(a).]~~

656 ~~[(4)]~~ (3) (a) An individual who serves an alcoholic product in a full-service restaurant
657 licensee's premises shall make a written beverage tab for each table or group that orders or
658 consumes an alcoholic product on the premises.

659 (b) A beverage tab required by this Subsection ~~[(4)]~~ (3) shall list the type and amount
660 of an alcoholic product ordered or consumed.

661 ~~[(5)]~~ (4) A person's willingness to serve an alcoholic product may not be made a
662 condition of employment as a server with a full-service restaurant licensee.

663 ~~[(6)]~~ (5) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish
664 liquor at the licensed premises on any day during the period that:

- 665 (i) begins at midnight; and
- 666 (ii) ends at 11:29 a.m.

667 (b) A full-service restaurant licensee may sell, offer for sale, or furnish beer during the
668 hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,
669 except that a full-service restaurant licensee may not sell, offer for sale, or furnish beer before
670 11:30 a.m. on any day.

671 ~~[(7)]~~ (6) A full-service restaurant licensee shall maintain at least 70% of its total
672 restaurant business from the sale of food, which does not include:

- 673 (a) mix for an alcoholic product; or
- 674 (b) a service charge.

675 ~~[(8)]~~ (7) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an
676 alcoholic product except after the full-service restaurant licensee confirms that the patron has

677 the intent to order food prepared, sold, and furnished at the licensed premises.

678 (b) A full-service restaurant licensee shall maintain on the licensed premises adequate
679 culinary facilities for food preparation and dining accommodations.

680 ~~[(9)]~~ (8) (a) Subject to the other provisions of this Subsection ~~[(9)]~~ (8), a patron may
681 not have more than two alcoholic products of any kind at a time before the patron.

682 (b) A patron may not have more than one spirituous liquor drink at a time before the
683 patron.

684 (c) An individual portion of wine is considered to be one alcoholic product under
685 Subsection ~~[(9)]~~ (8)(a).

686 ~~[(10)]~~ (9) A patron may consume an alcoholic product only:

687 (a) at:

688 (i) the patron's table;

689 (ii) a counter; or

690 (iii) a ~~[seating grandfathered]~~ bar structure; and

691 (b) where food is served.

692 ~~[(11)]~~ (a) ~~A full-service restaurant licensee may not sell, offer for sale, or furnish an~~
693 ~~alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar~~
694 ~~structure that is not a seating grandfathered bar structure.]~~

695 ~~[(b)]~~ (10) (a) At a ~~[seating grandfathered]~~ bar structure a patron who is 21 years of age
696 or older may:

697 (i) sit;

698 (ii) be furnished an alcoholic product; and

699 (iii) consume an alcoholic product.

700 ~~[(c)]~~ (b) Except as provided in Subsection ~~[(11)]~~ ~~(d)~~ (10)(c), at a ~~[seating grandfathered]~~
701 bar structure a full-service restaurant licensee may not permit a minor to, and a minor may not:

702 (i) sit; or

703 (ii) consume food or beverages.

704 ~~[(d)]~~ (c) (i) A minor may be at a ~~[seating grandfathered]~~ bar structure if the minor is
705 employed by a full-service restaurant licensee:

706 (A) as provided in Subsection [32B-5-308](#)(2); or

707 (B) to perform maintenance and cleaning services during an hour when the full-service

708 restaurant licensee is not open for business.

709 (ii) A minor may momentarily pass by a [~~seating grandfathered~~] bar structure without
710 remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's
711 premises in which the minor is permitted to be.

712 [~~(12) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee~~
713 ~~may dispense an alcoholic product only if:~~]

714 [~~(a) the alcoholic product is dispensed from:~~]

715 [~~(i) a grandfathered bar structure;~~]

716 [~~(ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at~~
717 ~~the grandfathered bar structure if that area is used to dispense an alcoholic product as of May~~
718 ~~12, 2009; or]~~

719 [~~(iii) an area that is:~~]

720 [~~(A) separated from an area for the consumption of food by a patron by a solid,~~
721 ~~translucent, permanent structural barrier such that the facilities for the storage or dispensing of~~
722 ~~an alcoholic product are:]~~

723 [~~(I) not readily visible to a patron; and]~~

724 [~~(II) not accessible by a patron; and]~~

725 [~~(B) apart from an area used:]~~

726 [~~(I) for dining;]~~

727 [~~(II) for staging; or]~~

728 [~~(III) as a lobby or waiting area;]~~

729 [~~(b) the full-service restaurant licensee uses an alcoholic product that is:]~~

730 [~~(i) stored in an area described in Subsection (12)(a); or]~~

731 [~~(ii) in an area not described in Subsection (12)(a) on the licensed premises and:]~~

732 [~~(A) immediately before the alcoholic product is dispensed it is in an unopened~~
733 ~~container;]~~

734 [~~(B) the unopened container is taken to an area described in Subsection (12)(a) before~~
735 ~~it is opened; and]~~

736 [~~(C) once opened, the container is stored in an area described in Subsection (12)(a);~~
737 ~~and]~~

738 [~~(c) any instrument or equipment used to dispense alcoholic product is located in an~~

739 ~~area described in Subsection (12)(a);]~~

740 ~~[(13)]~~ (11) A full-service restaurant licensee may state in a food or alcoholic product
741 menu a charge or fee made in connection with the sale, service, or consumption of liquor
742 including:

743 (a) a set-up charge;

744 (b) a service charge; or

745 (c) a chilling fee.

746 Section 3. Section **32B-6-302** is amended to read:

747 **32B-6-302. Definitions.**

748 ~~[As used in this part:]~~

749 ~~[(1)(a) "Grandfathered bar structure" means a bar structure in a licensed premises of a
750 limited-service restaurant licensee that:]~~

751 ~~[(i) as of May 11, 2009, has:]~~

752 ~~[(A) patron seating at the bar structure;]~~

753 ~~[(B) a partition at one or more locations on the bar structure that is along:]~~

754 ~~[(f) the width of the bar structure; or]~~

755 ~~[(H) the length of the bar structure; and]~~

756 ~~[(C) facilities for the dispensing or storage of an alcoholic product:]~~

757 ~~[(f) on the portion of the bar structure that is separated by the partition described in
758 Subsection (1)(a)(i)(B); or]~~

759 ~~[(H) if the partition as described in Subsection (1)(a)(i)(B)(H) is adjacent to the bar
760 structure in a manner visible to a patron sitting at the bar structure;]~~

761 ~~[(ii) is not operational as of May 12, 2009, if:]~~

762 ~~[(A) a person applying for a limited-service restaurant license:]~~

763 ~~[(f) has as of May 12, 2009, a building permit to construct the restaurant;]~~

764 ~~[(H) is as of May 12, 2009, actively engaged in the construction of the restaurant, as
765 defined by rule made by the commission; and]~~

766 ~~[(H) is issued the limited-service restaurant license by no later than December 31,
767 2009; and]~~

768 ~~[(B) once constructed, the licensed premises has a bar structure described in Subsection
769 (1)(a)(i);]~~

770 [~~(iii) as of May 12, 2009, has no patron seating at the bar structure; or]~~
771 [~~(iv) is not operational as of May 12, 2009, if:]~~
772 [~~(A) a person applying for a limited-service restaurant license:]~~
773 [~~(I) has as of May 12, 2009, a building permit to construct the restaurant];~~
774 [~~(H) is as of May 12, 2009, actively engaged in the construction of the restaurant, as~~
775 ~~defined by rule made by the commission; and]~~
776 [~~(III) is issued a limited-service restaurant license by no later than December 31, 2009;~~
777 ~~and]~~
778 [~~(B) once constructed, the licensed premises has a bar structure with no patron seating.]~~
779 [~~(b) "Grandfathered bar structure" does not include a grandfathered bar structure~~
780 ~~described in Subsection (1)(a) on or after the day on which a restaurant remodels the~~
781 ~~grandfathered bar structure, as defined by rule made by the commission.]~~
782 [~~(c) Subject to Subsection (1)(b), a grandfathered bar structure remains a grandfathered~~
783 ~~bar structure notwithstanding whether a restaurant undergoes a change of ownership.]~~
784 [~~(2) "Seating grandfathered bar structure" means:]~~
785 [~~(a) a grandfathered bar structure described in Subsection (1)(a)(i) or (ii); or]~~
786 [~~(b) a bar structure grandfathered under Section [32B-6-409](#).]~~
787 [~~(3) "Wine"~~ As used in this part, "wine" includes an alcoholic beverage defined as
788 wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10, including the following alcoholic
789 beverages made in the manner of wine containing not less than 7% and not more than 24% of
790 alcohol by volume:
791 [~~(a)~~] (1) sparkling and carbonated wine;
792 [~~(b)~~] (2) wine made from condensed grape must;
793 [~~(c)~~] (3) wine made from other agricultural products than the juice of sound, ripe
794 grapes;
795 [~~(d)~~] (4) imitation wine;
796 [~~(e)~~] (5) compounds sold as wine;
797 [~~(f)~~] (6) vermouth;
798 [~~(g)~~] (7) cider;
799 [~~(h)~~] (8) perry; and
800 [~~(i)~~] (9) sake.

801 Section 4. Section 32B-6-305 is amended to read:

802 **32B-6-305. Specific operational requirements for a limited-service restaurant**
803 **license.**

804 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
805 Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant
806 licensee shall comply with this section.

807 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
808 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

- 809 (i) a limited-service restaurant licensee;
- 810 (ii) individual staff of a limited-service restaurant licensee; or
- 811 (iii) both a limited-service restaurant licensee and staff of the limited-service restaurant
812 licensee.

813 (2) (a) A limited-service restaurant licensee on the licensed premises may not sell, offer
814 for sale, furnish, or allow consumption of:

- 815 (i) spirituous liquor; or
- 816 (ii) a flavored malt beverage.

817 (b) A product listed in Subsection (2)(a) may not be on the premises of a
818 limited-service restaurant licensee except for use:

- 819 (i) as a flavoring on a dessert; and
- 820 (ii) in the preparation of a flaming food dish, drink, or dessert.

821 [~~3~~] In addition to complying with Section ~~32B-5-303~~, a limited-service restaurant
822 licensee shall store an alcoholic product in a storage area described in Subsection (12)(a).]

823 [~~4~~] (3) (a) An individual who serves an alcoholic product in a limited-service
824 restaurant licensee's premises shall make a written beverage tab for each table or group that
825 orders or consumes an alcoholic product on the premises.

826 (b) A beverage tab required by this Subsection [~~4~~] (3) shall list the type and amount
827 of an alcoholic product ordered or consumed.

828 [~~5~~] (4) A person's willingness to serve an alcoholic product may not be made a
829 condition of employment as a server with a limited-service restaurant licensee.

830 [~~6~~] (5) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish
831 wine or heavy beer at the licensed premises on any day during the period that:

832 (i) begins at midnight; and

833 (ii) ends at 11:29 a.m.

834 (b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer during
835 the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,
836 except that a limited-service restaurant licensee may not sell, offer for sale, or furnish beer
837 before 11:30 a.m. on any day.

838 ~~[(7)]~~ (6) A limited-service restaurant licensee shall maintain at least 70% of its total
839 restaurant business from the sale of food, which does not include a service charge.

840 ~~[(8)]~~ (7) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish
841 an alcoholic product except after the limited-service restaurant licensee confirms that the
842 patron has the intent to order food prepared, sold, and furnished at the licensed premises.

843 (b) A limited-service restaurant licensee shall maintain on the licensed premises
844 adequate culinary facilities for food preparation and dining accommodations.

845 ~~[(9)]~~ (8) (a) Subject to the other provisions of this Subsection ~~[(9)]~~ (8), a patron may
846 not have more than two alcoholic products of any kind at a time before the patron.

847 (b) An individual portion of wine is considered to be one alcoholic product under
848 Subsection ~~[(9)]~~ (8)(a).

849 ~~[(10)]~~ (9) A patron may consume an alcoholic product only:

850 (a) at:

851 (i) the patron's table;

852 (ii) a counter; or

853 (iii) a ~~[seating grandfathered]~~ bar structure; and

854 (b) where food is served.

855 ~~[(11)] (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an
856 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
857 structure that is not a seating grandfathered bar structure.]~~

858 ~~[(b)]~~ (10) (a) At a ~~[seating grandfathered]~~ bar structure a patron who is 21 years of age
859 or older may:

860 (i) sit;

861 (ii) be furnished an alcoholic product; and

862 (iii) consume an alcoholic product.

863 ~~[(e)]~~ (b) Except as provided in Subsection ~~[(11)(d)]~~ (10)(c), at a ~~[seating grandfathered]~~
 864 bar structure a limited-service restaurant licensee may not permit a minor to, and a minor may
 865 not:

866 (i) sit; or

867 (ii) consume food or beverages.

868 ~~[(d)]~~ (c) (i) A minor may be at a ~~[seating grandfathered]~~ bar structure if the minor is
 869 employed by a limited-service restaurant licensee:

870 (A) as provided in Subsection [32B-5-308](#)(2); or

871 (B) to perform maintenance and cleaning services during an hour when the
 872 limited-service restaurant licensee is not open for business.

873 (ii) A minor may momentarily pass by a ~~[seating grandfathered]~~ bar structure without
 874 remaining or sitting at the bar structure en route to an area of a limited-service restaurant
 875 licensee's premises in which the minor is permitted to be.

876 ~~[(12) Except as provided in Subsection [32B-5-307](#)(3), a limited-service restaurant
 877 licensee may dispense an alcoholic product only if:]~~

878 ~~[(a) the alcoholic product is dispensed from:]~~

879 ~~[(i) a grandfathered bar structure;]~~

880 ~~[(ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at
 881 the grandfathered bar structure if that area is used to dispense an alcoholic product as of May
 882 12, 2009; or]~~

883 ~~[(iii) an area that is:]~~

884 ~~[(A) separated from an area for the consumption of food by a patron by a solid,
 885 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
 886 an alcoholic product are:]~~

887 ~~[(I) not readily visible to a patron; and]~~

888 ~~[(II) not accessible by a patron; and]~~

889 ~~[(B) apart from an area used:]~~

890 ~~[(I) for dining;]~~

891 ~~[(II) for staging; or]~~

892 ~~[(III) as a lobby or waiting area;]~~

893 ~~[(b) the limited-service restaurant licensee uses an alcoholic product that is:]~~

894 ~~[(i) stored in an area described in Subsection (12)(a); or]~~
895 ~~[(ii) in an area not described in Subsection (12)(a) on the licensed premises and:]~~
896 ~~[(A) immediately before the alcoholic product is dispensed it is in an unopened~~
897 ~~container;]~~
898 ~~[(B) the unopened container is taken to an area described in Subsection (12)(a) before~~
899 ~~it is opened; and]~~
900 ~~[(C) once opened, the container is stored in an area described in Subsection (12)(a);~~
901 ~~and]~~
902 ~~[(c) any instrument or equipment used to dispense alcoholic product is located in an~~
903 ~~area described in Subsection (12)(a).]~~

904 ~~[(13)]~~ (11) A limited-service restaurant licensee may state in a food or alcoholic
905 product menu a charge or fee made in connection with the sale, service, or consumption of
906 wine or heavy beer including:

- 907 (a) a set-up charge;
- 908 (b) a service charge; or
- 909 (c) a chilling fee.

910 Section 5. Section **32B-6-703** is amended to read:

911 **32B-6-703. Commission's power to issue on-premise beer retailer license.**

912 (1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of
913 beer on the premises as an on-premise beer retailer, the person shall first obtain an on-premise
914 beer retailer license from the commission in accordance with this part.

915 (2) (a) The commission may issue an on-premise beer retailer license to establish
916 on-premise beer retailer licensed premises at places and in numbers as the commission
917 considers proper for the storage, sale, offer for sale, furnishing, and consumption of beer on
918 premises operated as an on-premise beer retailer.

919 (b) At the time that the commission issues an on-premise beer retailer license, the
920 commission shall designate whether the on-premise beer retailer is a tavern.

921 (c) The commission may change its designation of whether an on-premise beer retailer
922 is a tavern in accordance with rules made by the commission.

923 (d) (i) In determining whether an on-premise beer retailer is a tavern, the commission
924 shall determine whether the on-premise beer retailer will engage primarily in the retail sale of

925 beer for consumption on the establishment's premises.

926 (ii) In making a determination under this Subsection (2)(d), the commission shall
927 consider:

928 (A) whether the on-premise beer retailer will operate as one of the following:

929 (I) a beer bar;

930 (II) a parlor;

931 (III) a lounge;

932 (IV) a cabaret; or

933 (V) a nightclub;

934 (B) if the on-premise beer retailer will operate as described in Subsection (2)(d)(ii)(A):

935 (I) whether the on-premise beer retailer will sell food in the establishment; and

936 (II) if the on-premise beer retailer sells food, whether the revenue from the sale of beer

937 will exceed the revenue of the sale of food;

938 (C) whether full meals including appetizers, main courses, and desserts will be served;

939 (D) the square footage and seating capacity of the premises;

940 (E) what portion of the square footage and seating capacity will be used for a dining

941 area in comparison to the portion that will be used as a lounge or bar area;

942 (F) whether the person will maintain adequate on-premise culinary facilities to prepare

943 full meals, except a person that is located on the premises of a hotel or resort facility may use

944 the culinary facilities of the hotel or resort facility;

945 (G) whether the entertainment provided on the premises of the beer retailer will be

946 suitable for minors; and

947 (H) the beer retailer management's ability to manage and operate an on-premise beer

948 retailer license including:

949 (I) management experience;

950 (II) past beer retailer management experience; and

951 (III) the type of management scheme that will be used by the beer retailer.

952 (e) On or after March 1, 2012:

953 (i) To be licensed as an on-premise beer retailer that is not a tavern, a person shall:

954 (A) maintain at least 70% of the person's total gross revenues from business directly

955 related to a recreational amenity on or directly adjoining the licensed premises of the beer

956 retailer; or

957 (B) have a recreational amenity on or directly adjoining the licensed premises of the
958 beer retailer and maintain at least 70% of the person's total gross revenues from the sale of
959 food.

960 (ii) The commission may not license a person as an on-premise beer retailer if the
961 person does not:

962 (A) meet the requirements of Subsection (2)(e)(i); or

963 (B) operate as a tavern.

964 (iii) (A) A person licensed as an on-premise beer retailer that is not a tavern as of July
965 1, 2011 shall notify the department by no later than August 1, 2011, whether effective March 1,
966 2012, the person will seek to be licensed as a beer-only restaurant licensee, a tavern, or an
967 on-premise beer retailer that meets the requirements of Subsection (2)(e)(i).

968 (B) If an on-premise beer retailer fails to notify the department as required by
969 Subsection (2)(e)(iii)(A), the on-premise beer retailer's license expires as of February 29, 2012,
970 and to operate as an on-premise beer retailer after February 29, 2012, the on-premise beer
971 retailer is required to apply as a new licensee~~[-and any bar or bar structure on the premises of
972 an on-premise beer retailer license that is not a tavern and does not meet the requirements of
973 Subsection (2)(e)(i) will not be grandfathered under Subsection 32B-6-902(1)].~~

974 ~~[(iv) A person who, after August 1, 2011, applies for an on-premise beer retailer
975 license that is not a tavern and does not meet the requirements of Subsection (2)(e)(i), may not
976 have or construct facilities for the dispensing or storage of an alcoholic product that do not
977 meet the requirements of Subsection 32B-6-905(12)(a)(ii).]~~

978 (3) Subject to Section 32B-1-201:

979 (a) The commission may not issue a total number of on-premise beer retailer licenses
980 that are taverns that at any time exceeds the number determined by dividing the population of
981 the state by 54,147.

982 (b) The commission may issue a seasonal on-premise beer retailer license for a tavern
983 in accordance with Section 32B-5-206.

984 (4) (a) Unless otherwise provided in Subsection (4)(b):

985 (i) only one on-premise beer retailer license is required for each building or resort
986 facility owned or leased by the same person; and

987 (ii) a separate license is not required for each retail beer dispensing location in the
988 same building or on the same resort premises owned or operated by the same person.

989 (b) (i) Subsection (4)(a) applies only if each retail beer dispensing location in the
990 building or resort facility operates in the same manner.

991 (ii) If each retail beer dispensing location does not operate in the same manner:

992 (A) one on-premise beer retailer license designated as a tavern is required for the
993 locations in the same building or on the same resort premises that operate as a tavern; and

994 (B) one on-premise beer retailer license is required for the locations in the same
995 building or on the same resort premises that do not operate as a tavern.

996 Section 6. Section **32B-6-805** is amended to read:

997 **32B-6-805. Specific operational requirements for a reception center license.**

998 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
999 Requirements, a reception center licensee and staff of the reception center licensee shall
1000 comply with this section.

1001 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1002 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

1003 (i) a reception center licensee;

1004 (ii) individual staff of a reception center licensee; or

1005 (iii) both a reception center licensee and staff of the reception center licensee.

1006 [~~(2)~~ In addition to complying with Section ~~32B-5-303~~, a reception center licensee shall
1007 ~~store an alcoholic product in a storage area described in Subsection (15)(a).]~~

1008 [~~(3)~~ (2) (a) For the purpose described in Subsection [~~(3)~~ (2)](b), a reception center
1009 licensee shall provide the following with advance notice of a scheduled event in accordance
1010 with rules made by the commission:

1011 (i) the department; and

1012 (ii) the local law enforcement agency responsible for the enforcement of this title in the
1013 jurisdiction where the reception center is located.

1014 (b) Any of the following may conduct a random inspection of an event:

1015 (i) an authorized representative of the commission or the department; or

1016 (ii) a law enforcement officer.

1017 [~~(4)~~ (3) (a) Except as otherwise provided in this title, a reception center licensee may

1018 sell, offer for sale, or furnish an alcoholic product at an event only for consumption at the
1019 reception center's licensed premises.

1020 (b) A host of an event, a patron, or a person other than the reception center licensee or
1021 staff of the reception center licensee, may not remove an alcoholic product from the reception
1022 center's licensed premises.

1023 (c) Notwithstanding Section 32B-5-307, a patron at an event may not bring an
1024 alcoholic product into or onto, or remove an alcoholic product from, the reception center.

1025 [(5)] (4) (a) A reception center licensee may not leave an unsold alcoholic product at an
1026 event following the conclusion of the event.

1027 (b) At the conclusion of an event, a reception center licensee shall:

1028 (i) destroy an opened and unused alcoholic product that is not saleable, under
1029 conditions established by the department; and

1030 (ii) return to the reception center licensee's approved locked storage area any:

1031 (A) opened and unused alcoholic product that is saleable; and

1032 (B) unopened container of an alcoholic product.

1033 (c) Except as provided in Subsection [(5)] (4)(b) with regard to an open or sealed
1034 container of an alcoholic product not sold or consumed at an event, a reception center
1035 licensee~~[(i) shall store the alcoholic product in accordance with Subsection (2); and (ii)]~~ may
1036 use the alcoholic product at more than one event.

1037 [(6)] (5) Notwithstanding Section 32B-5-308, a reception center licensee may not
1038 employ a minor in connection with an event at the reception center at which food is not made
1039 available.

1040 [(7)] (6) A person's willingness to serve an alcoholic product may not be made a
1041 condition of employment as a server with a reception center licensee.

1042 [(8)] (7) A reception center licensee may not sell, offer for sale, or furnish an alcoholic
1043 product at the licensed premises on any day during the period that:

1044 (a) begins at 1 a.m.; and

1045 (b) ends at 9:59 a.m.

1046 [(9)] (8) (a) A reception center licensee may not maintain in excess of 30% of its total
1047 annual receipts from the sale of an alcoholic product, which includes:

1048 (i) mix for an alcoholic product; or

1049 (ii) a charge in connection with the furnishing of an alcoholic product.

1050 (b) A reception center licensee shall report the information necessary to show
1051 compliance with this Subsection ~~[(9)]~~ (8) to the department on an annual basis.

1052 ~~[(10)]~~ (9) A reception center licensee may not sell, offer for sale, or furnish an
1053 alcoholic product at an event at which a minor is present unless the reception center licensee
1054 makes food available at all times when an alcoholic product is sold, offered for sale, furnished,
1055 or consumed during the event.

1056 ~~[(11)]~~ (10) (a) Subject to the other provisions of this Subsection ~~[(11)]~~ (10), a patron
1057 may not have more than two alcoholic products of any kind at a time before the patron.

1058 (b) An individual portion of wine is considered to be one alcoholic product under
1059 Subsection ~~[(11)]~~ (10)(a).

1060 ~~[(12)]~~ (11) (a) A reception center licensee shall supervise and direct a person involved
1061 in the sale, offer for sale, or furnishing of an alcoholic product.

1062 (b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product
1063 shall complete an alcohol training and education seminar.

1064 ~~[(13)]~~ (12) A staff person of a reception center licensee shall remain at an event at all
1065 times when an alcoholic product is sold, offered for sale, furnished, or consumed at the event.

1066 ~~[(14)]~~ (13) A reception center licensee may not sell, offer for sale, or furnish an
1067 alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar
1068 structure.

1069 ~~[(15) Except as provided in Subsection (16), a reception center licensee may dispense
1070 an alcoholic product only if:]~~

1071 ~~[(a) the alcoholic product is dispensed from an area that is:]~~

1072 ~~[(i) separated from an area for the consumption of food by a patron by a solid,
1073 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
1074 an alcoholic product are:]~~

1075 ~~[(A) not readily visible to a patron; and]~~

1076 ~~[(B) not accessible by a patron; and]~~

1077 ~~[(ii) apart from an area used:]~~

1078 ~~[(A) for staging; or]~~

1079 ~~[(B) as a lobby or waiting area;]~~

1080 ~~[(b) the reception center licensee uses an alcoholic product that is:]~~
1081 ~~[(i) stored in an area described in Subsection (15)(a); or]~~
1082 ~~[(ii) in an area not described in Subsection (15)(a) on the licensed premises and:]~~
1083 ~~[(A) immediately before the alcoholic product is dispensed it is in an unopened~~
1084 ~~container;]~~
1085 ~~[(B) the unopened container is taken to an area described in Subsection (15)(a) before~~
1086 ~~it is opened; and]~~
1087 ~~[(C) once opened, the container is stored in an area described in Subsection (15)(a);~~
1088 ~~and]~~
1089 ~~[(c) any instrument or equipment used to dispense an alcoholic product is located in an~~
1090 ~~area described in Subsection (15)(a).]~~
1091 ~~[(16)]~~ (14) A reception center licensee may dispense an alcoholic product from a
1092 mobile serving area that:
1093 (a) is moved only by staff of the reception center licensee;
1094 (b) is capable of being moved by only one individual; and
1095 (c) is no larger than 6 feet long and 30 inches wide.
1096 ~~[(17)]~~ (15) (a) A reception center licensee may not have an event on the licensed
1097 premises except pursuant to a contract between a third party host of the event and the reception
1098 center licensee under which the reception center licensee provides an alcoholic product sold,
1099 offered for sale, or furnished at an event.
1100 (b) At an event, a reception center licensee may furnish an alcoholic product:
1101 (i) without charge to a patron, except that the third party host of the event shall pay for
1102 an alcoholic product furnished at the event; or
1103 (ii) with a charge to a patron at the event.
1104 (c) The commission may by rule define what constitutes a "third-party host" for
1105 purposes of this Subsection ~~[(17)]~~ (15) so that a reception center licensee and the third-party
1106 host are not owned by or operated by the same persons, except that the rule shall permit a
1107 reception center licensee to host an event for an immediate family member of the reception
1108 center licensee.
1109 ~~[(18)]~~ (16) A reception center licensee shall have culinary facilities that are:
1110 (a) adequate to prepare a full meal; and

1111 (b) (i) located on the licensed premises; or
1112 (ii) under the same control as the reception center licensee.
1113 ~~[(19)]~~ (17) (a) Except as provided in Subsection ~~[(19)]~~ (17)(b), a reception center
1114 licensee may not operate an event:
1115 (i) that is open to the general public; and
1116 (ii) at which an alcoholic product is sold or offered for sale.
1117 (b) A reception center licensee may operate an event described in Subsection ~~[(19)]~~
1118 (17)(a) if the event is hosted:
1119 (i) at the reception center no more frequently than once a calendar year; and
1120 (ii) by a nonprofit organization that is organized and qualified under Section 501(c),
1121 Internal Revenue Code.
1122 Section 7. Section **32B-6-905** is amended to read:
1123 **32B-6-905. Specific operational requirements for a beer-only restaurant license.**
1124 (1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational
1125 Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee
1126 shall comply with this section.
1127 (b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action
1128 in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:
1129 (i) a beer-only restaurant licensee;
1130 (ii) individual staff of a beer-only restaurant licensee; or
1131 (iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.
1132 (2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for
1133 sale, furnish, or allow consumption of liquor.
1134 (b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:
1135 (i) as a flavoring on a dessert; and
1136 (ii) in the preparation of a flaming food dish, drink, or dessert.
1137 ~~[(3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee~~
1138 ~~shall store beer in a storage area described in Subsection (12)(a).]~~
1139 ~~[(4)]~~ (3) (a) An individual who serves beer in a beer-only restaurant licensee's premises
1140 shall make a written beverage tab for each table or group that orders or consumes an alcoholic
1141 product on the premises.

1142 (b) A beverage tab required by this Subsection [~~(4)~~] (3) shall list the type and amount
1143 of beer ordered or consumed.

1144 [~~(5)~~] (4) A person's willingness to serve beer may not be made a condition of
1145 employment as a server with a beer-only restaurant licensee.

1146 [~~(6)~~] (5) A beer-only restaurant licensee may sell, offer for sale, or furnish beer during
1147 the hours specified in Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer,
1148 except that a beer-only restaurant licensee may not sell, offer for sale, or furnish beer before
1149 11:30 a.m. on any day.

1150 [~~(7)~~] (6) A beer-only restaurant licensee shall maintain at least 70% of its total
1151 restaurant business from the sale of food, which does not include a service charge.

1152 [~~(8)~~] (7) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer except
1153 after the beer-only restaurant licensee confirms that the patron has the intent to order food
1154 prepared, sold, and furnished at the licensed premises.

1155 (b) A beer-only restaurant shall maintain on the licensed premises adequate culinary
1156 facilities for food preparation and dining accommodations.

1157 [~~(9)~~] (8) A patron may not have more than two beers at a time before the patron.

1158 [~~(10)~~] (9) A patron may consume a beer only:

1159 (a) at:

1160 (i) the patron's table;

1161 (ii) a [~~grandfathered~~] bar structure; or

1162 (iii) a counter; and

1163 (b) where food is served.

1164 [~~(11)~~] (a) ~~A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to~~
1165 ~~a patron, and a patron may not consume an alcoholic product at a bar structure.]~~

1166 [~~(b) Notwithstanding Subsection (11)(a), at a grandfathered]~~

1167 (10) (a) At a bar structure, a patron who is 21 years of age or older may:

1168 (i) sit;

1169 (ii) be furnished a beer; and

1170 (iii) consume a beer.

1171 [~~(c)~~] (b) Except as provided in Subsection [~~(11)~~]~~(d)~~ (10)(c), at a [~~grandfathered~~] bar
1172 structure, a beer-only restaurant licensee may not permit a minor to, and a minor may not:

1173 (i) sit; or
1174 (ii) consume food or beverages.

1175 ~~[(d)]~~ (c) (i) A minor may be at a [~~grandfathered~~] bar structure if the minor is employed
1176 by a beer-only restaurant licensee:

1177 (A) as provided in Subsection 32B-5-308(2); or

1178 (B) to perform maintenance and cleaning services during an hour when the beer-only
1179 restaurant licensee is not open for business.

1180 (ii) A minor may momentarily pass by a [~~grandfathered~~] bar structure without
1181 remaining or sitting at the bar structure en route to an area of a beer-only restaurant licensee's
1182 premises in which the minor is permitted to be.

1183 [~~(12) A beer-only restaurant licensee may dispense a beer only if:~~]

1184 [~~(a) the beer is dispensed from an area that is:~~]

1185 [~~(i) a grandfathered bar structure; or]~~

1186 [~~(ii) separated from an area for the consumption of food by a patron by a solid,
1187 translucent, permanent structural barrier such that the facilities for the storage or dispensing of
1188 an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart
1189 from an area used for dining, for staging, or as a lobby or waiting area;]~~

1190 [~~(b) the beer-only restaurant licensee uses a beer that is:~~]

1191 [~~(i) stored in an area described in Subsection (12)(a); or]~~

1192 [~~(ii) in an area not described in Subsection (12)(a) on the licensed premises and:~~]

1193 [~~(A) immediately before the beer is dispensed it is in an unopened container;]~~

1194 [~~(B) the unopened container is taken to an area described in Subsection (12)(a) before
1195 it is opened; and]~~

1196 [~~(C) once opened, the container is stored in an area described in Subsection (12)(a);
1197 and]~~

1198 [~~(c) any instrument or equipment used to dispense the beer is located in an area
1199 described in Subsection (12)(a).]~~

1200 Section 8. Section 32B-8-402 is amended to read:

1201 **32B-8-402. Specific operational requirements for a sublicense.**

1202 (1) A person operating under a sublicense is subject to the operational requirements
1203 under the provisions applicable to the sublicense except that~~[-(a)]~~ notwithstanding a

1204 requirement in the provisions applicable to the sublicense, a person operating under the
1205 sublicense is not subject to a requirement that a certain percentage of the gross receipts for the
1206 sublicense be from the sale of food, except to the extent that the gross receipts for the
1207 sublicense are included in calculating the percentages under Subsection 32B-8-401(4)[, and].

1208 [~~(b) notwithstanding Section 32B-6-202 or 32B-6-302, a bar structure in a licensed~~
1209 ~~premises operated under a full-service restaurant sublicense or limited-service restaurant~~
1210 ~~sublicense is considered a grandfathered bar structure if the resort license that includes the~~
1211 ~~full-service restaurant sublicense or limited-service restaurant sublicense is issued by no later~~
1212 ~~than December 31, 2010.]~~

1213 (2) Subject to Section 32B-8-502, for purposes of interpreting an operational
1214 requirement imposed by the provisions applicable to a sublicense:

1215 (a) a requirement imposed on a person operating under a sublicense applies to the
1216 resort licensee; and

1217 (b) a requirement imposed on staff of a person operating under a sublicense applies to
1218 staff of the resort licensee.

1219 Section 9. **Repealer.**

1220 This bill repeals:

1221 Section 32B-6-202, **Definitions.**

1222 Section 32B-6-205.1, **Credit for grandfathered bar structures of full-service**
1223 **restaurant licensee.**

1224 Section 32B-6-305.1, **Credit for grandfathered bar structures for limited-service**
1225 **restaurant licensee.**

1226 Section 32B-6-902, **Definitions.**